REMARKS

Claims 103-116 are now pending in the above-referenced patent application. Applicants respectfully request further consideration of these claims, in view of the amendments set forth above and the following remarks.

Rejections Under 35 U.S.C. § 102

The Office action rejects claims 103-116 under 35 U.S.C. § 102(e) as being anticipated by Bell et al. (U.S. Patent No. 5,891,558).

Applicants respectfully traverse these rejections.

"[F]or anticipation under 35 U.S.C. 102, the reference must teach ***every aspect*** of the claimed invention either explicitly or impliedly." M.P.E.P. §706.02(IV) (emphasis added).

Bell describes methods of making foam structures, such as prostheses, by freeze drying biopolymer solutions. The biopolymers can be "collagen, alginic acid, polyvinyl alcohol, elastin, chondroitin sulfate, laminin, fibronectin, fibrinogen, and combinations of these biopolymers". *Bell, Column 2, lines 10-14.*

The Examiner has not pointed to, and Applicants cannot find any disclosure in Bell of a method of making a prosthesis that includes the step of extruding any material, specifically a thermoplastic elastomer with the aid of a blowing agent, to produce a foamed graft as is recited in independent claim 103. It should be noted that the Examiner has failed to point to any disclosure in Bell whatsoever as anticipating any element of the claims.

For at least this reason, Bell does not anticipate independent claim 103 or any claims dependent thereon.

Further, Bell lacks, among other things, any explicit or implied teaching of the further step of reticulating or annealing the foamed graft to effect an open-cell structure, as recited in present claims 103 and 116, or a "biosynthetic heart valve," a "sewing ring," or a "stent" as recited in present claims 109-111, respectively, let alone those devices made by the method of claim 103.

For at least these reasons, Applicants respectfully submit that article claims 109-112 are not anticipated by Bell.

Reconsideration and withdrawal of the rejection under 35 U.S.C. §102 are respectfully requested.

Compact Prosecution

Applicants respectfully remind the Examiner of his obligations under the Rules of Practice in Patent Cases (Rules) and the Manual of Patent Examining Procedure (MPEP). Specifically, 37CFR 1.104(a)(1) requires that the Examiner

> shall make a thorough investigation of the available prior art relating to the subject matter of the claimed invention" and that "(t)he examination shall be complete with respect both to compliance of the application... with the applicable statutes and rules and to the patentability of the invention as claimed... .

(emphasis added). The MPEP is even more explicit with respect to the Examiner's obligations, requiring that

> (p)iecemeal examination should be avoided as much as possible. The Examiner ordinarily should reject each claim on all valid grounds available, avoiding, however, undue multiplication of references.

See MPEP §707.07(g) (emphasis added), cross-referencing MPEP §904.03. The cross-referenced section likewise provides explicit direction to the Examiner that

> (i)t is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a careful and comprehensive search... be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search.

See MPEP §904.03 (emphasis added). Accordingly, it is clear that examination of a patent application should be concise as reasonably possible.

Although Applicants appreciate the thoroughness of the examination of the instant application, Applicants submit that the Examiner has had ample opportunity, in the course of *three* successive non-final Office actions, to effect a "careful and comprehensive search" and to make rejections on "all grounds available" as required under aforementioned Rules and the MPEP.

Accordingly, the next Office action should either be made final or the application should be allowed with no further searching. Any other course of action would, as noted in the MPEP, substantially impair "speedy and just determination of the issues". Significantly, any other course of action would also be substantially prejudicial to Applicants, with respect to further adverse impact on potential patent term.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Applicants believe that no further fees are required in connection with the instant amendment. If necessary, however, the Examiner is hereby authorized to charge any fees required in connection with this application to Deposit Account No. 13-2546.

Respectfully submitted for,

Zilla, et al.

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James H. Ackley
Registration Number: 45,695
Telephone Number: 763-505-2913
Facsimile Number: 763-505-2530
CUSTOMER NUMBER: 27581